

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GERARDO VILLAGOMEZ,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
POTATO KING TRANSPORTATION, INC.)	
and SANDRA J. HORSTMANN,)	PLAINTIFF DEMANDS A
)	TRIAL BY JURY
Defendants.)	

COMPLAINT AT LAW

NOW COMES the Plaintiff, GERARDO VILLAGOMEZ, by and through his attorneys, RIDGE & DOWNES, and for his Complaint at Law against Defendants, POTATO KING TRANSPORTATION, INC. and SANDRA J. HORSTMANN, states as follows:

PARTIES, JURISDICTION, VENUE

1. Plaintiff, GERARDO VILLAGOMEZ, is domiciled at 2001 Whitetail Court in the City of Avon, County of Hendricks, State of Indiana, and he was and is at all relevant times a citizen of the State of Indiana.

2. Defendant, POTATO KING TRANSPORTATION, INC., is a domestic Corporation, with its corporate headquarters located in La Crosse, County of LaCrosse, State of Wisconsin, and it was and is at all relevant times a citizen of the State of Wisconsin.

3. Upon information and belief, Defendant, POTATO KING TRANSPORTATION, INC., hired and employed a driver for its inter and intrastate deliveries of its products, namely, Defendant, SANDRA J. HORSTMANN who resides in the Village of Coon Valley, County of Vernon, State of Wisconsin, and she is and was at all relevant times a citizen of the State of Wisconsin.

4. Jurisdiction of this Court is invoked under the provisions of Title 28, U.S.C., §1332.

5. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

COUNT I - NEGLIGENCE
POTATO KING TRANSPORTATION, INC.

1-5. Plaintiff, GERARDO VILLAGOMEZ, realleges paragraphs 1 through 5 Complaint at Law as paragraphs 1 through 5 of this Count I, and he incorporates the same by way of reference as though fully set forth herein.

6. On February 17, 2016 at or about 5:00 a.m., I-80 West was a public highway which ran generally east/west in the City of Cheyenne, County of Laramie, State of Wyoming.

7. On February 17, 2016 at or about 5:00 a.m., Plaintiff, GERARDO VILLAGOMEZ, was the driver/operator of a vehicle namely a 2016 Daimler Freightliner semi, and at all pertinent times, was traveling westbound on I-80 at or near mile marker 395 in the City of Cheyenne, County of Laramie, State of Wyoming.

8. On February 17, 2016 at or about 5:00 a.m., Defendant, POTATO KING TRANSPORTATION, INC., owned a 2016 Kenworth T680, and at all times pertinent, was being operated by its employee/driver, Defendant, SANDRA J. HORSTMAN, and was traveling westbound on I-80 at or near mile marker 395 in the City of Cheyenne, County of Laramie, State of Wyoming.

9. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Plaintiff, GERARDO VILLAGOMEZ, was in the exercise of due care and caution for the safety of his person and property and for the safety and property of others.

10. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, POTATO KING TRANSPORTATION, INC., by its employee and driver, Defendant, SANDRA J. HORSTMANN, caused the semi tractor/trailer she was then and there operating to violently crash into the driver's side of the semi tractor/trailer that Plaintiff, GERARDO VILLAGOMEZ, was lawfully operating, while Plaintiff was traveling westbound on I-80 at or near mile marker 395 in the City of Cheyenne, County of Laramie, State of Wyoming.

11. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, POTATO KING TRANSPORTATION, INC., by its employee and driver, Defendant, SANDRA J. HORSTMANN, drove her vehicle in such a willful, reckless and grossly negligent manner that it violently crashed into the semi tractor/trailer being driven by Plaintiff, GERARDO VILLAGOMEZ.

12. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, POTATO KING TRANSPORTATION, INC., by its employee and driver, Defendant, SANDRA J. HORSTMANN, was under a duty to obey the statutes of the State of Wyoming pertaining to the operation of a motor vehicle; to exercise due care to avoid colliding with, and crushing other vehicles and people; and further, to drive her vehicle with due regard for the safety of all persons upon the public roadways.

13. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, POTATO KING TRANSPORTATION, INC., by its employee and driver, Defendant, SANDRA J. HORSTMANN, was guilty of the following negligent, careless and unlawful acts or omissions:

- (a) Drove her vehicle with a willful and wanton disregard for the safety of the Plaintiff in violation of WY ST § 31-5-229;

- (b) Drove her vehicle at a speed which was greater than was reasonable and proper with regard to traffic conditions and the use of the in violation of WY ST § 31-5-301;
- (c) Drove her vehicle at an excessive speed which endangered the safety of Plaintiff, GERARDO VILLAGOMEZ in violation of WY ST § 31-5-301;
- (d) Failed to decrease speed as was necessary to avoid in violation of WY ST § 31-5-301;
- (f) Carelessly and negligently failed to keep her vehicle under proper control in violation of WY ST § 31-5, *et seq.*;
- (g) Carelessly and negligently failed to properly pass the Plaintiff's vehicle in violation of WY ST § 31-5-203;
- (h) Drove her vehicle with brakes which were inadequate to control the movement of and to stop the movement of and to stop and hold such; or in the alternative, if such brakes were adequate, failed to apply the brakes properly so as to check the speed of her vehicle and to avoid striking the Plaintiff in violation of WY ST § 31-5-951;
- (i) Carelessly and negligently owned, operated, maintained and drove her vehicle in an unsafe manner and condition in violation of WY ST § 31-5-970;
- (j) Failed to maintain a proper lookout for other vehicles then upon the highway, including the vehicle in which the Plaintiff was a passenger in violation of WY ST § 31-5-229; and
- (k) Was otherwise negligent in the operation of his vehicle in violation of WY ST § 31-5, *et seq.*

14. One or more of the foregoing negligent and wrongful acts or omissions by Defendant, POTATO KING TRANSPORTATION, INC., by its employee and driver, Defendant, SANDRA J. HORSTMANN, directly and proximately caused Defendant's vehicle to come into violent contact with the semi tractor/trailer which Plaintiff, GERARDO VILLAGOMEZ, was lawfully operating.

15. As a direct and proximate result of the foregoing, the Plaintiff, GERARDO VILLAGOMEZ, incurred severe injuries which have caused and will continue to cause him great pain and inconvenience, anguish, and disability, as a further result, Plaintiff, GERARDO VILLAGOMEZ, has been and will in the future be kept from attending to his ordinary affairs and duties, and has lost and will lose great gains which he otherwise would have made and acquired; as a further result, Plaintiff has incurred medical, hospital and related expenses and is reasonably certain to incur further medical, hospital and related expenses in the future.

WHEREFORE, Plaintiff, GERARDO VILLAGOMEZ, prays for judgment in his favor and against the Defendant, POTATO KING TRANSPORTATION, INC., in a sum in excess of Seventy-Five Thousand Dollars (\$75,000.00).

COUNT II - NEGLIGENCE
SANDRA J. HORSTMANN

1-15. Plaintiff, GERARDO VILLAGOMEZ, realleges paragraphs 1 through 15 of his Complaint at Law as paragraphs 1 through 15 of this Count II, and he incorporates the same by way of reference as though fully set forth herein.

16. On February 17, 2016 at or about 5:00 a.m., I-80 West was a public highway which ran generally east/west in the City of Cheyenne, County of Laramie, State of Wyoming.

17. On February 17, 2016 at or about 5:00 a.m., Plaintiff, GERARDO VILLAGOMEZ, was the driver/operator of a vehicle namely a 2016 Daimler Freightliner semi, and at all pertinent times, was traveling westbound on I-80 at or near mile marker 395 in the City of Cheyenne, County of Laramie, State of Wyoming.

18. On February 17, 2016 at or about 5:00 a.m., Defendant, POTATO KING TRANSPORTATION, INC., owned a 2016 Kenworth T680, and at all times pertinent, was being operated by its employee/driver, Defendant, SANDRA J. HORSTMAN, and was traveling westbound on I-80 at or near mile marker 395 in the City of Cheyenne, County of Laramie, State of Wyoming.

19. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Plaintiff, GERARDO VILLAGOMEZ, was in the exercise of due care and caution for the safety of his person and property and for the safety and property of others.

20. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, SANDRA J. HORSTMANN, caused the semi tractor/trailer she was then and there operating to violently crash into the driver's side of the semi tractor/trailer that Plaintiff, GERARDO VILLAGOMEZ, was lawfully operating, while Plaintiff was traveling westbound on I-80 at or near mile marker 395 in the City of Cheyenne, County of Laramie, State of Wyoming.

21. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, SANDRA J. HORSTMANN, drove her vehicle in such a willful, reckless and grossly negligent manner that it violently crashed into the semi tractor/trailer being driven by Plaintiff, GERARDO VILLAGOMEZ.

22. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, SANDRA J. HORSTMANN, was under a duty to obey the statutes of the State of Wyoming

pertaining to the operation of a motor vehicle; to exercise due care to avoid colliding with, and crushing other vehicles and people; and further, to drive her vehicle with due regard for the safety of all persons upon the public roadways.

23. On February 17, 2016 at or about 5:00 a.m., and at all pertinent times, Defendant, SANDRA J. HORSTMANN, was guilty of the following negligent, careless and unlawful acts or omissions:

- (a) Drove her vehicle with a willful and wanton disregard for the safety of the Plaintiff in violation of WY ST § 31-5-229;
- (b) Drove her vehicle at a speed which was greater than was reasonable and proper with regard to traffic conditions and the use of the in violation of WY ST § 31-5-301;
- (c) Drove her vehicle at an excessive speed which endangered the safety of Plaintiff, GERARDO VILLAGOMEZ in violation of WY ST § 31-5-301;
- (d) Failed to decrease speed as was necessary to avoid in violation of WY ST § 31-5-301;
- (f) Carelessly and negligently failed to keep her vehicle under proper control in violation of WY ST § 31-5, *et seq.*;
- (g) Carelessly and negligently failed to properly pass the Plaintiff's vehicle in violation of WY ST § 31-5-203;
- (h) Drove her vehicle with brakes which were inadequate to control the movement of and to stop the movement of and to stop and hold such; or in the alternative, if such brakes were adequate, failed to apply the brakes properly so as to check the

speed of her vehicle and to avoid striking the Plaintiff in violation of WY ST § 31-5-951;

- (i) Carelessly and negligently owned, operated, maintained and drove her vehicle in an unsafe manner and condition in violation of WY ST § 31-5-970;
- (j) Failed to maintain a proper lookout for other vehicles then upon the highway, including the vehicle in which the Plaintiff was a passenger in violation of WY ST § 31-5-229; and
- (k) Was otherwise negligent in the operation of his vehicle in violation of WY ST § 31-5, *et seq.*

24. One or more of the foregoing negligent and wrongful acts or omissions by Defendant, SANDRA J. HORSTMANN, directly and proximately caused Defendant's vehicle to come into violent contact with the semi tractor/trailer which Plaintiff, GERARDO VILLAGOMEZ, was lawfully operating.

25. As a direct and proximate result of the foregoing, the Plaintiff, GERARDO VILLAGOMEZ, incurred severe injuries which have caused and will continue to cause him great pain and inconvenience, anguish, and disability, as a further result, Plaintiff, GERARDO VILLAGOMEZ, has been and will in the future be kept from attending to his ordinary affairs and duties, and has lost and will lose great gains which he otherwise would have made and acquired; as a further result, Plaintiff has incurred medical, hospital and related expenses and is reasonably certain to incur further medical, hospital and related expenses in the future.

WHEREFORE, Plaintiff, GERARDO VILLAGOMEZ, prays for judgment in his favor and against the Defendant, SANDRA J. HORSTMANN, in a sum in excess of Seventy-Five Thousand Dollars (\$75,000.00).

**COUNT III – NEGLIGENT ENTRUSMENT
POTATO KING TRANSPORTATION, INC.**

1-25. Plaintiff, GERARDO VILLAGOMEZ, realleges paragraphs 1 through 25 of his Complaint at Law as paragraphs 1 through 25 of this Count III, and he incorporates the same by way of reference as though fully set forth herein.

26. That at all times herein mentioned, Defendant, POTATO KING TRANSPORTATION, INC., was the owner of a motor vehicle, specifically, a 2016 Kenworth T680, registered in the State of Wisconsin with a license plate number, 79447W, and had superior rights to control the motor vehicle.

27. That on February 17, 2016, Defendant, POTATO KING TRANSPORTATION, INC., had reasonable knowledge that the Defendant, SANDRA J. HORSTMANN, was incompetent, inexperienced, and reckless and likely to operate the motor vehicle in such a manner as to create an unreasonable risk of harm to others, in the operation of the said motor vehicle.

28. That on February 17, 2016, despite the aforementioned knowledge, Defendant, POTATO KING TRANSPORTATION, INC., negligently entrusted the motor vehicle to Defendant, SANDRA J. HORSTMANN.

29. That as a direct and proximate result of Defendant, POTATO KING TRANSPORTATION, INC.'s, negligence, Plaintiff, GERARDO VILLAGOMEZ, was injured and has incurred medical expense in and about the treatment of his injuries.

WHEREFORE, Plaintiff, GERARDO VILLAGOMEZ, prays for judgment in his favor and against the Defendant, SANDRA J. HORSTMANN, in a sum in excess of Seventy-Five Thousand Dollars (\$75,000.00).

Respectfully submitted,

RIDGE & DOWNES

/s/James T. Foley
Attorneys for Plaintiff, GERARDO VILLAGOMEZ

James T. Foley
RIDGE & DOWNES
101 North Wacker Drive
Suite 200
Chicago, IL 60606
(312) 372-8282